

MEMO ENDORSED



THE CITY OF NEW YORK

LAW DEPARTMENT

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August 30, 2013

BY FACSIMILE

Hon. James C. Francis, IV
 United States Magistrate Judge
 United States District Court
 500 Pearl Street
 New York, New York 10007

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DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 9/3/13

Re: Mark Nunez v. City of New York, et al., 11-CV-5845 (LTS) (JCF)

Your Honor:

We write to seek the following modifications to the scheduling order in this matter, which do not affect the final pre-trial conference date but which reflect extensions of certain discovery deadlines prior to that date as set forth below. Plaintiffs do not oppose this request. To date, the City has produced approximately 1.41 million pages of documents (images in TIFF format), with an additional 37,000 images to be produced on Tuesday of next week which brings the total production to approximately 1.44 million images.

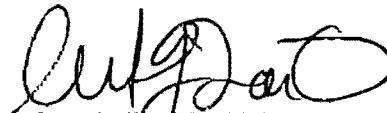
- Document discovery to be completed by October 31, 2013. By order entered on August 2, 2013 (DE 90), the court granted the parties' joint request to extend the deadline for document production to August 31, 2013. The City respectfully requests an extension of sixty (60) days to complete the document production at this time, and we have represented to plaintiffs that this deadline will not be extended absent unforeseeable circumstances which will be specifically described in any application to the court. The principal category of documents that remains outstanding are the UOI files concerning incidents in which the named plaintiffs were involved, including media, that pre-date 2009. Seven hundred forty-two (742) files remained outstanding as of the last extension, and since that time the agency has located approximately half of them. Other categories of documents, such as audit reports, certain training for uniformed staff, documents concerning the arrests of staff and inmates, updated 24-hour reports and Board of Correction documents also remain outstanding, and will be produced by the extended deadline if Your Honor grants this request.

- Electronic discovery to be completed by December 31, 2013. The City will endeavor to complete e-mail production and production of other relevant documents from electronic databases/sources by that date, but will request more time if necessary. The parties have invested substantial time in identifying appropriate custodians and in narrowing search terms that will be used to extract electronically stored information. After the extraction process, we will have to review the E-mails and attachments for relevance, privilege and redactions if necessary.
- Fact discovery, including depositions, to be completed by July 31, 2014, an extension of one month from the current deadline of June 30, 2014. If the document production deadline is extended, plaintiffs have requested and we consent to this extension. The City will not commence depositions of the twelve (12) named plaintiffs or other inmate witnesses until the document production is complete.
- Expert discovery to be completed by November 30, 2014, a similar extension of one month from the current deadline of October 30, 2014.

The remaining deadlines for filing dispositive motions and the pre-trial conference date would remain the same, at this time, if Your Honor grants the foregoing request.

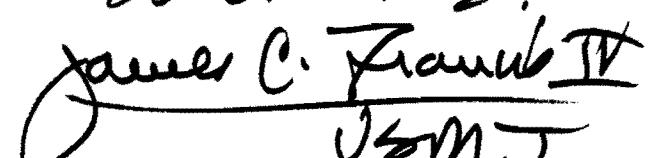
We thank the court for its consideration of the foregoing.

Respectfully submitted,


Arthur G. Larkin (AL 9059)
Assistant Corporation Counsel

AGL/m

cc: All Counsel (by E-mail)

8/3/13
Application granted.
SO ORDERED.

James C. Francis IV
JCF/J